



Report to Planning & Zoning Commission

Clay County, Missouri

Case Number April 14-117CUP

Case Type Conditional Use Permit

Project Name 33 Hwy / AT&T
Commercial Telecommunications Facility

Applicants Mike Douchant
Dolan Realty Advisors, LLC, an agent for AT&T Wireless
144 W. Lockwood Ave.
Suite 200
Webster Groves, MO 63119

Owners John A. & Lisa A. Blodgett
12506 33 Hwy
Kearney, MO 64060

Request **Conditional Use Permit** to erect a 150-foot tall Commercial Telecommunications Facility

Application Submittal 2014-02-28

Public Notice Published 2014-03-13

Neighbor Letters Sent 2014-03-14

Report Date 2014-03-25

REPORT AUTHOR(S) Matt Tapp, Director
Debbie Viviano, Planner

Recommendation TABLED



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General Information

Site Location: approximately 12506 33 Hwy
Section 15 | Township 52 | Range 31

Site Size: 4.98± acres

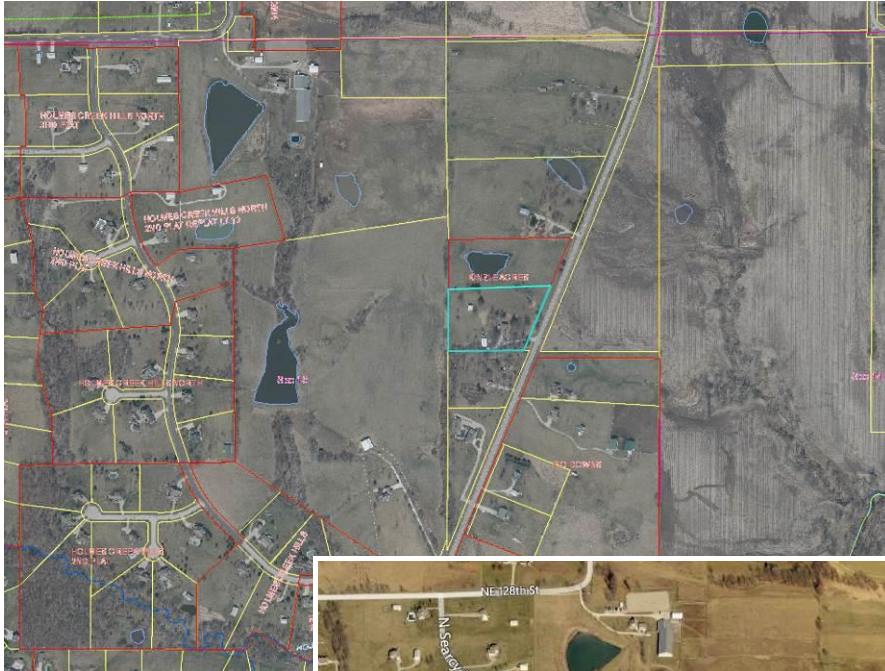
Existing Landuse & Zoning: Agricultural District (AG)

Zoning/Platting History: Kinze Acres, recorded 07/16/1992.

Surrounding Landuse & Zoning:

- North – Agricultural (AG) and R-1 zoned land, Spry Acres (R-1A), City of Kearney
- East – R-1B zoned land (Flanery property)
- South – Agricultural (AG) zoned land, Pio Downs (AG), Holmes Creek Estates (AG)
- West – Agricultural (AG) zoned land, Holmes Creek Hills subdivision (R-1/R-1A/R-1B)

Current Conditions:



Courtesy Clay County Assessor,
GIS/Mapping



Courtesy Microsoft® Bing™



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Assessment

Mike Douchant with Dolan Realty Advisors LLC, an agent for AT&T Wireless on behalf of the property owners John A. & Lisa A. Blodgett is requesting approval of a **Conditional Use Permit (CUP)** to erect a Commercial Telecommunications Facility specifically for wireless mobile and data services at approximately 12506 33 Hwy. The property is Lot 1 of Kinzle Acres subdivision approximately 4.98± acres in size and zoned Agricultural District (AG).

This request is to locate a 150-foot tall monopole style commercial communications tower ("cell tower") in order to provide mobile phone and data service to the surrounding area.

2008 Comprehensive Plan Considerations

The Comprehensive Plan ("Plan") indicates that the subject property is located in the URBAN SERVICES TIER, as well as the 1-Mile Urban Coordination Sub-Tier.

The following tables illustrate two (2) of the most pertinent policies shaped by the Plan. The first (1st) table shows the land use tiers and corresponding guidelines, and the second (2nd) explains the exceptions to the 20-acre minimum lot size policy directed by the Plan.

Table 4.2 - Land Use Planning Tiers - Presented on the Planning Tier Map			
	Natural Resources Tier* (Yellow)	Rural Low-Density Tier* (Green)	Urban Services Tier* (Salmon)
Intent	Support continued agricultural uses in areas beyond near- and long-term urban service extensions.	To accommodate low density rural uses in areas located beyond anticipated city annexation areas.	To promote urban development compatible with the long range growth plans of adjoining cities.
Primary Uses	Agricultural-related uses, natural resources	Agricultural crop lands, livestock grazing, woodlands, grasslands, rural residences	Urban density residential and non-residential
Residential Uses	Rural Density: 1 dwelling unit per 20+ acres.	Rural Density; Rural Residential Density; low-density rural residential development: 1-dwelling unit per 20+ acres, or 1-farmstead dwelling on 5+ acres; Suburban Density: moderate-density development on municipal-level services: up to 4- units per acre.	Suburban Density: moderate-density development on municipal-level services: up to 4- units per acre. Urban Density: development on municipal-level services: greater than 4-units per acre. 20-acre minimum for agricultural and rural residential uses until such time as urban development occurs.
Non-Residential Uses	Farm service related, recreation	Farm service related, recreation	Recreation, limited commercial and industrial consistent with the long range growth plans of adjoining cities.
Minimum Sanitary Sewer Provisions	On-site septic, Community Wastewater Facility if indicated by LESA guidance.	On-site septic, Community Wastewater Facility if indicated by LESA guidance.	Municipal Wastewater Treatment Plant connection for Suburban Density or greater. ⁽³⁾
Zoning Districts	Ag-related zoning districts; Open Space & Parks; non-agricultural zoning if on strict standards (not including Res. Low Density, such as on 3-acre lots).	Ag-related zoning districts; Open Space & Parks; non-agricultural zoning if on strict standards (not including Res. Low Density such as on 3-acre lots).	Open Space & Parks; and residential districts through general industrial (not including Res. Low Density such as on 3-acre lots). AG, Agricultural zoning is appropriate until full range of urban services available.

⁽³⁾ On-site septic allowed for agricultural uses only.

* The **Planning Tier Map** notes a special designation of areas within one mile of each city: "1-Mile Urban Coordination Sub-Tier" where advise-and-consent should be solicited from the designated city. The applicant will be required to submit a letter from the city of jurisdiction concerning the proposal. The Clay County Planning and Zoning Commission may consider the letter as a non binding city recommendation for Clay County to consider in their deliberations.



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Table 4.3 – Option B for Land Use Tier Implementation: Transition Policy Procedures			
	Natural Resources Tier* (Yellow)	Rural Low-Density Tier (Green)	Urban Services Tier (Salmon)
Intent	Exceptions from 20-acre minimum lot size in Ag-districts / phasing in of new regulations		
Density Exceptions for Legal Lots of Record as of the date of Revision of the Land Development Code	Subdivision of land to 5+acre lots, provided that 50% of the subdivided parcel is preserved, such as in an agriculture deed restriction.	Or, subdivision of land to 10+acre lots, provided that a "shadow plat" at urban density is approved.	Subdivision of land to 10+acre lots, provided that a "shadow plat" at urban density is approved, and—for plats within one mile of a city—the city's issues have been addressed.
Other Exceptions	Farmstead** dwellings allowed on 5+acre parcels.		City within one mile may review and recommend other exceptions granted in other tiers, provided a "shadow plat" at urban density is approved.

* The Natural Resources Tier includes an "Urban Services Transition Sub-Tier" area along M-92 and C-Highways that extends where urban development is influenced by the urban highway; yet remains within the Natural Resources Tier designation for purposes of enhanced environmental review and scrutiny.

** A "Farmstead Dwelling" is the original residence built and initially occupied by a farm family, regardless of whether the current household occupant is associated with farming.

The City of Kearney responded in an email dated 03/10/2014 that they did not have "comments related to the cell tower application".

Character of the General Neighborhood

Spry Acres (R-1A) and the City of Kearney (~ ½ mile) is to the north. Flanery R-1B zoned land is to the East. Pio Downs and Holmes Creek Estates (AG) are to the south, and the Holmes Creek Hills subdivision is to the west. Agricultural (AG) zoned land to the east and south of the property [See Attachment B].

Federal Aviation Administration (FAA) Considerations

The runway for Midwest National Air Center (MNAC) is approximately 4.74 miles to the southeast. The applicant does need to pursue FAA notification of construction or alternation (Form 7460), as the subject request falls within the required notification area from a FAA airport/heliport.

Figure 1 to the right illustrates the following:

- Subject tower location – red star
- FAA 7460 Notification Areas – orange-colored rings
 - Larger to east – Midwest National Air Center (MNAC)
 - Smaller to lower southwest – Roosterville Airport

Code Considerations

The Conditional Use Permit (CUP) application was properly noticed in the Kearney Courier on March 13, 2014. Adjacent property owners within the statutory law mandated 1,000 foot distance were notified by means of a certified letter sent March 14, 2014.

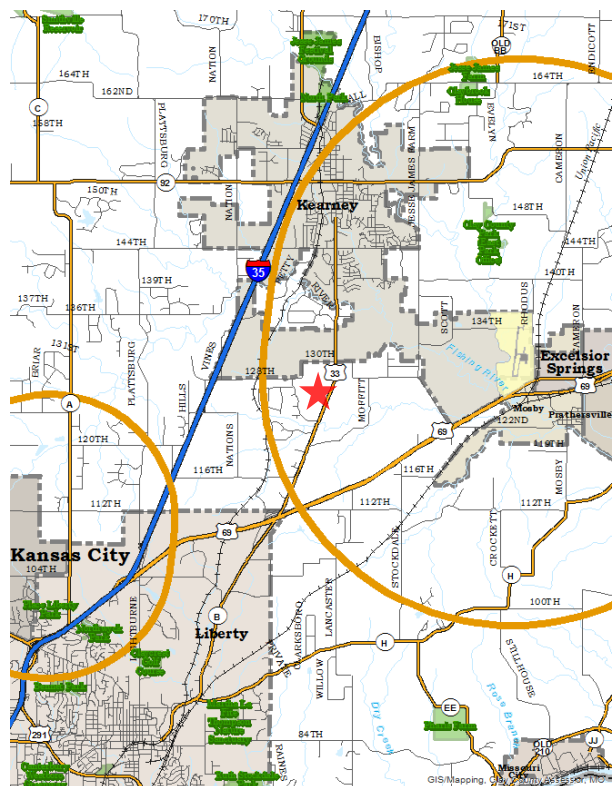


Figure 1: FAA Notification Areas



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The subject request for a Commercial Telecommunications Facility is handled under multiple portions of the 2011 Clay County Land Development Code ("LDC"). The use table inside Section 151-6.1 includes a "Telecommunications Facility (Commercial)" designation requiring approval of a Conditional Use Permit ("CUP") in the Agricultural ("AG"), Residential Rural (R-1), Residential Ranchette (R-5), Residential Urban (R-U), Commercial Services (C-3), Limited Industrial (I-1) and General Industrial (I-2) zoning districts. As such, the subject request must meet all of the approval criteria for a CUP in Section 151-3.10 (A) (13) detailed below:

- A) The proposed use complies with the intent of the Comprehensive Plan and general provisions of the Land Development Code, modified for the specific use request.
- B) The proposed use in its proposed location will not have a substantial adverse impact on the public health, safety or general welfare.
- C) The proposed use will not cause substantial injury to the value of other property in the vicinity.
- D) Adequate access routes will be provided and designed to prevent traffic hazards and to minimize traffic congestion in public streets.
- E) Adequate public safety, transportation and utility facilities/services will be available to service the subject property while maintaining adequate levels of service for existing development, and
- F) The proposed use is compatible with adjacent uses in terms of scale, site design, and operating characteristics (i.e., hours of operation, traffic generation, lighting, noise, odor, dust, and other external impacts).

Under Section 151-6.2 (G), the LDC provides specific use standards for commercial antennas/towers which apply to this request are summarized below:

1) Federal Requirements

STAFF RESPONSE: The applicant must pursue FAA notification of construction or alternation (Form 7460), as the subject request falls within the required notification area from a FAA airport/heliport (MNAC). A Form 7460 has been submitted to the FAA but approval has not yet been received.

- 2) Abandoned Towers – The LDC requires abandoned towers be removed at the owner's expense, and a bond or letter of credit be maintained for this purpose in the County Clerk's Office. The amount shall be equal to a demolition bid of the tower structure, updated every 5 years.
- 3) Inspection – The tower shall be inspected every 24 months by a registered structural engineer. A copy of the inspection report shall be provided to the County.
- 4) Accessory Equipment Storage – mobile equipment or equipment not used in direct support of a tower facility shall not be stored or parked on the site.

STAFF RESPONSE: No accessory equipment/storage is requested in relation to this application.

- 5) Fences – Towers shall be enclosed by security fencing not less than 6 feet in height with anti-climbing device, and have a locked gate. Security signs shall be posted on the fence.



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STAFF RESPONSE: *supplied drawings show 6-foot tall chain-link fence around full perimeter of facility site. Monopole design is inherently anti-climbing.*

- 6) Design and Construction – The LDC requires a building permit be issued for construction of a tower, and plans and specifications be submitted from a registered professional engineer.
- 7) Lighting – If lighting is required, the County Commission may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

STAFF RESPONSE: *No additional lighting is required in relationship to this request.*

- 8) Landscaping – The tower compound shall be landscaped with a buffer of plant materials that effectively screens the compound from adjacent property.

STAFF RESPONSE: *The North and West sides of the compound do not have adequate existing vegetation to shield it from view. As such, additional landscaping should be installed along those sides. As of this writing, no proof has been submitted that shows any new landscaping. See attached site plan.*

- 9) Co-locations – The LDC requires tower installations above 120 feet in height provide a minimum capacity for three (3) total users that includes AT&T.

STAFF RESPONSE: *As of this writing, no proof has been submitted that shows the proposed tower/antenna has the ability to provide space for 3 total users.*

- 10) Separation from Existing Towers – A monopole tower such as this subject request must be at least 1,500 feet from any existing tower.

STAFF RESPONSE: *A proposed new monopole facility such as the subject request must be at least 1,500 feet from any existing tall structures. The proposed facility is approximately 6,820 feet (~ 1.29 miles) northeast of the existing Clay County Highway Department communications tower.*

- 11) Height and setback – No tower shall exceed 300 total feet above ground level, and must be setback a minimum distance equal to 100% of the height of the tower from all adjoining property lines.

STAFF RESPONSE: *This tower is proposed to be 150 feet in height and is set to be located approximately 125 feet from the west property line, thereby NOT meeting this requirement.*

Section 151-5.5 of the LDC sets additional height hazard limitations for tall structures within the Airport Overlay Zoning District ("A-O"). The subject request falls approximately within the 1,127 feet above mean sea level (AMSL) max height level of the "Airport Conical Zones" (ACZ). The submittal as proposed reaches close to 1,025.2 AMSL (150' structure height + 875.2' ground elevation), thereby meeting or exceeding the additional standards inside A-O.

Outside Agency Review

The Clay County Health Department has given preliminary and final approval. Clay County Public Water Supply District #3 has not responded as of this writing. The Smithville Fire Protection District serves this property.



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The Missouri Department of Transportation (MoDOT) stated in an email dated 03/11/2014 that the "existing access to the property...can be used as an ingress egress for this [tower] site".

Findings

No opposition has been received as of the date of this staff report.

Recommendations

Staff recommends the request for the **Conditional Use Permit** to erect a 150-foot tall monopole Commercial Telecommunications Facility be **TABLED until the applicant can show their ability to meet the requirements as set out in LDC Section 151-6.2 (G), specifically:**

- Federal Requirements – approved FAA Form 7460 (§ 1).
- Landscaping around tower compound – minimum North and West sides (§ 9).
- Collocation – minimum number of 3 total users (§ 10).
- Setbacks from property lines – minimum of 150 feet (§ 13).

However, if the Commission decides to approve, staff recommends the following conditions as shown on Exhibit A:

Exhibit A

1. The CUP shall be based on a time frame of fifteen (15) years.
2. Written approval from FAA prior to issuance of building permit.
3. Landscaping shown around a minimum of the North and West sides of the tower compound prior to issuance of building permit.
4. Collocation of at least 3 total users shown prior to issuance of building permit.
5. Tower design shall be reviewed at the time a building permit is issued, and at minimum shall include the following elements:
 - a. Maximum height for this communications tower shall be 150 feet.
 - b. The monopole tower shall be set back a minimum distance of 150 feet from all adjoining property lines.
 - c. Construction plans and specification drawings be submitted from a registered professional engineer in the State of Missouri.
6. One (1) co-location shall be granted at no charge to the Clay County Sheriff Department and/or any other authorized public safety responder servicing the tower's coverage area.
7. Every twenty-four (24) months the tower must be inspected by a structural engineer registered in the State of Missouri who is regularly involved in maintenance, inspection and erection of communications towers.
8. If the tower is damaged or destroyed, the property owners will have 120 days to repair or dismantle the facility.
9. No hazardous materials may be stored on the property.
10. In case of amateur radio use (often referred to as "HAM radio"), applicant/owners must submit evidence of Federal Communications Commission (FCC) licenses and permits.

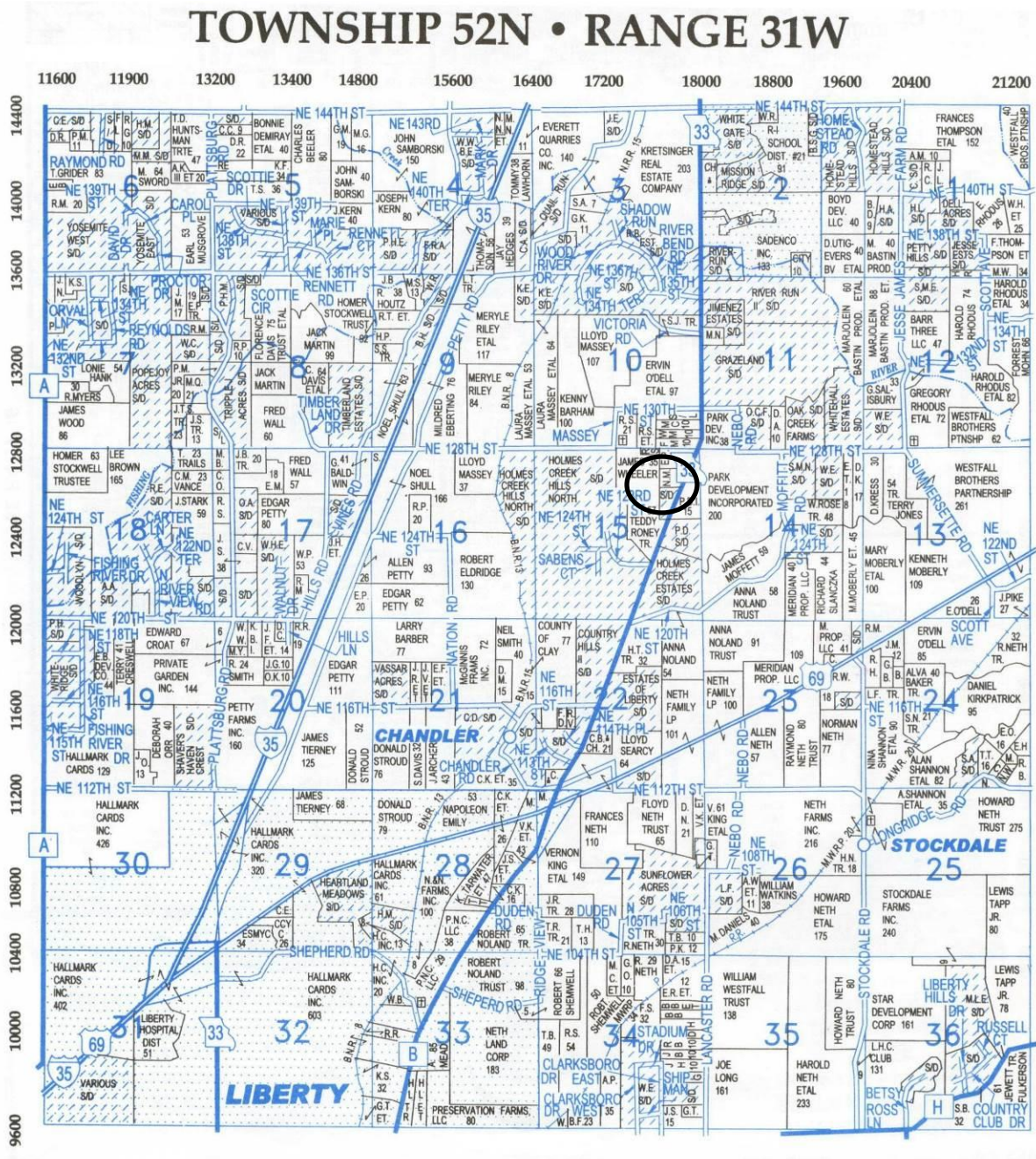


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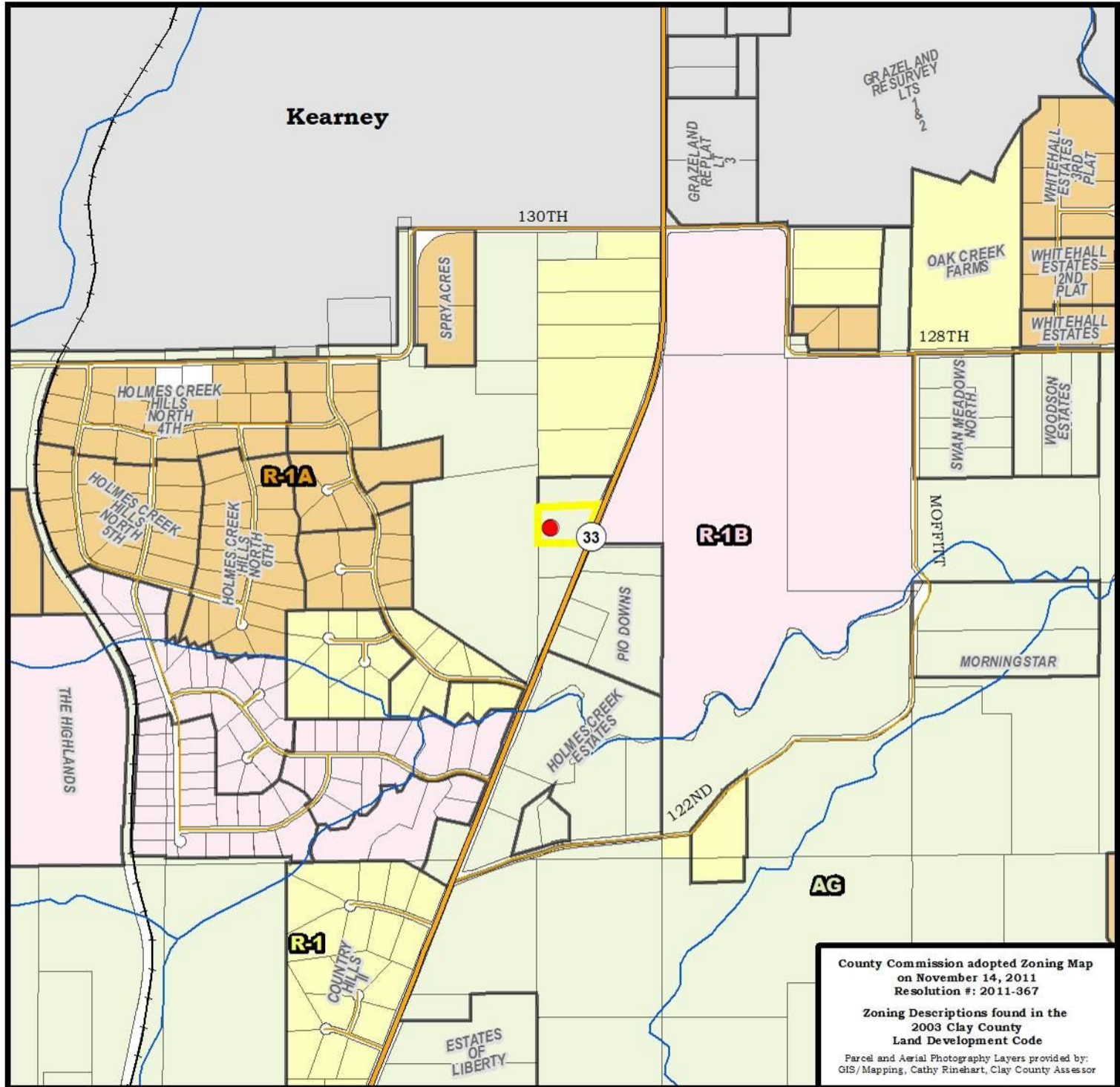
Attachments

April 14-117CUP – 33 Hwy / AT&T Commercial Telecommunications Facility Attachment A – Vicinity Map



April 14-117CUP – 33 Hwy AT&T Cell Tower

Attachment B - Existing Conditions Map



Planning & Zoning Department



1 inch = 1,500 feet
1 inch = 0.28 miles

LEGEND

- Location
- Property Line
- ~ Streams (EPA)
- Railroads
- Interstates
- State Highways
- Local Roads
- Highway Ramps
- Subdivisions
- 2014 City Limits
- Parks
- County Boundaries

Overlay Districts

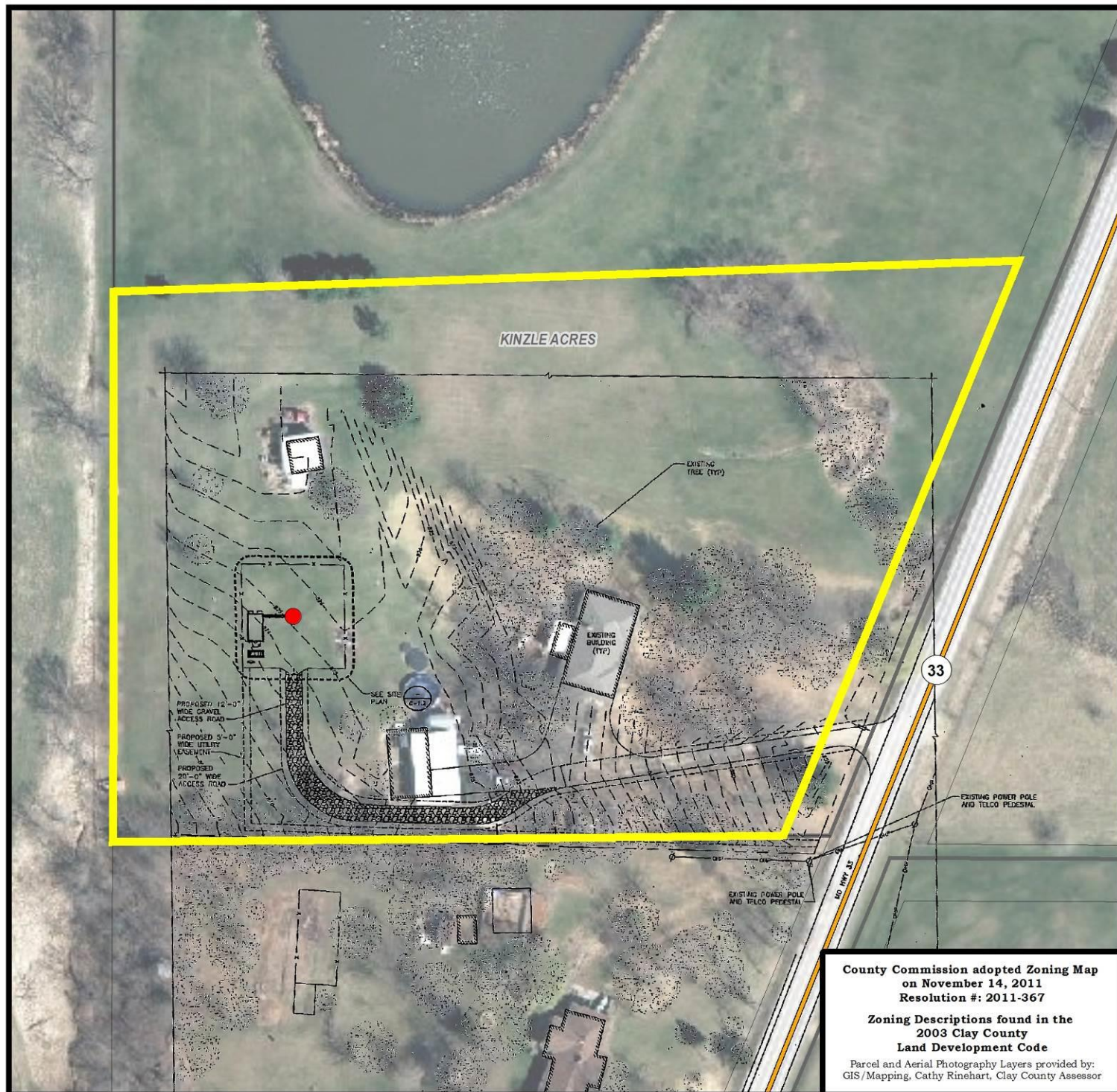
- CD (Conservation District)
- PUD (Planned Unit Development)

Zoning Districts

- AG
- R-1
- R-1A/R-5
- R-1B/RU
- R-3
- C-1
- C-2
- C-3
- I-1
- I-2
- OP

April 14-117CUP – 33 Hwy AT&T Cell Tower

Attachment C - Site Plan Map



County Commission adopted Zoning Map
on November 14, 2011
Resolution #: 2011-367

Zoning Descriptions found in the
2003 Clay County
Land Development Code

Parcel and Aerial Photography Layers provided by:
GIS/Mapping, Cathy Rinehart, Clay County Assessor

Planning & Zoning Department



1 inch = 100 feet
1 inch = 0.02 miles

LEGEND

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